

MDR Tracking Number: M5-04-2971-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 5-11-04.

The IRO reviewed therapeutic exercises on 8-5-03 to 9-26-03.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this Order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute contained services not addressed by the IRO and will be reviewed by the Medical Review Division. On 7-1-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

Code 90801 was billed for date of service 6-9-03 and denied as "R". On 10-18-04, the requestor submitted a withdrawal letter. Therefore, no dispute exists for this date of service.

- Code 99213-MP was billed on dates of service 5-28-03 through 7-25-03 and denied as "N"- documentation of manipulation not submitted. Daily treatment log supports office visits with manipulations. Recommend reimbursement of \$48.00 x 13 days = \$624.00
- Codes 97035, 97014, 97010, and 97250 were billed on date of service 7-25-03 and denied as "N" – no medical to support regression to passive PT. Per the daily treatment log, this same treatment was administered on 7-18-03, 7-21-03, and 7-23-03 and paid by the carrier. Therefore date of service 7-25-03 is not regression. Daily treatment log supports ultrasound, electrical stimulation, hot/cold packs, and soft tissue mobilization. Recommend reimbursement of \$22.00 + \$15.00 + \$11.00 + \$43.00 = \$91.00.

Codes 97250, 97010, 97014, 97035, 97110 were billed on 7-30-03 and denied as “D” – this is an identical processed charge audited on 9-2-03. Neither party submitted an original EOB therefore, this review will be per the 1996 Medical Fee Guideline.

- Code 97110 - Recent review of disputes involving this code by the Medical Dispute Resolution section as well as analysis from recent decisions of the State Office of Administrative Hearings indicate overall deficiencies in the adequacy of the documentation of this code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes “one-on-one”. Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division (MRD) has reviewed the matters in light of the Commission requirements for proper documentation. The MRD declines to order payment for code 97110 because it was not documented on the daily treatment log to clearly delineate the severity of the injury that would warrant exclusive one-to-one treatment.
- Codes 97010 (2 units), 97014, 97035, and 97250 – recommend reimbursement of \$11.00 + \$15.00 + \$22.00 + \$43.00 = \$91.00. Code 97010 has a max reimbursement of \$11.00.

Code 97110 billed for date of service 8-1-03 was denied as “N” – patient has completed WH and had PT after ESI. No medical to support need for continued therapy. Rationale: Recent review of disputes involving CPT code 97110 by the Medical Dispute Resolution section as well as analysis from recent decisions of the State Office of Administrative Hearings indicate overall deficiencies in the adequacy of the documentation of this code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes “one-on-one”. Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division (MRD) has reviewed the matters in light of the Commission requirements for proper documentation. The MRD declines to order payment for code 97110 because the daily notes did not clearly delineate the severity of the injury to warrant exclusive one-to-one treatment.

Code 99213 for date of service 9-2-03 was denied as “O” – allowance given per TWCC/CMS review policies. Code E1399 for date of service 9-2-03 was denied as “O” – allowance given @ fair and reasonable. Per table of disputed services, no payment was received for either service. Neither party submitted an original EOB; therefore, this review will be per Rule 134.202.

- Code 99213 – Recommend reimbursement of \$59.00. ($\$47.20 \times 125\% = \59.00).
- Code E1399 – per Rule 133.1 (a) (8), fair and reasonable reimbursement is one that meets the standards set out in TLC §413.011 and the lessor of a provider’s

usual and customary, or the determination of a payment amount for which the Commission has established no MAR, or a negotiated contract amount. Per Rule 133.307(g)(3)(D), if the dispute involves health care for which the commission has not established a MAR, documentation that discusses, demonstrates, and justifies that the payment being sought is a fair and reasonable rate of reimbursement in accordance with Rule 133.1 and 134.1. Neither party submitted relevant documentation. Therefore, no reimbursement recommended.

The above Findings and Decision is hereby issued this 29th day of October 2004.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

ORDER

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the Respondent to pay the unpaid medical fees outlined above as follows:

- In accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) for dates of service through July 31, 2003;
- In accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (c);
- Plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order.

This Order is applicable to dates of service 5-28-03 through 9-26-03 as outlined above in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 29th day of October 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

MEDICAL REVIEW OF TEXAS

[IRO #5259]

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NOTICE OF INDEPENDENT REVIEW DETERMINATION

TWCC Case Number:	
MDR Tracking Number:	M5-04-2971-01
Name of Patient:	
Name of URA/Payer:	
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	

July 21, 2004

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

Sincerely,

CLINICAL HISTORY

Available documentation received and included for review involved 216 pages of records from multiple providers between 11/08/02 and 07/23/04, including treatment notes, rehab notes, office visits, second opinions, MRI and electro-diagnostic test, and impairment rating.

Available record review reveals the following:

____, a 41-year-old male firefighter, sustained a work-related injury his lower back while lifting the "jaws of life" which weighed approximately 100 lbs. He developed low back and left leg pain and so presented to Dr. R, a chiropractor who instituted a conservative care régime. Electro-diagnostic studies on 10/21/02 showed a mild left L5 radiculopathy. MRI scan on 10/8/02 showed a left paramedian lateral disc protrusion at L4/L5 and a bulge to the L3/L4 level. He was seen by Dr. A for neurological consult on 12/12/02, at which time he was complaining of some urinary urgency / frequency and constipation. EMG results found acute lumbar radiculopathy involving L4/L5 and S1 motor roots bilaterally along with lower sacral S2-S4 motor root involvement from spinal level. The patient then was apparently placed in some form of work hardening, but did not do too well.

He requested a change treating doctor to Dr. B, a chiropractor, who noted that he had been placed in a work hardening program without exhausting lower level interventions, specifically a focused rehabilitation program. Dr. B recommended withdrawing the patient from the work hardening program as he did not believe that he was an appropriate candidate for that type of intervention, and appeared to be worsening as a result.

The patient was sent for some epidural steroid injections (X2), which helped him, following which he was placed in a focused exercise/rehabilitation program, along with some counseling. Again improvement was noted although the patient continued to be unstable, with frequent flare-ups. He eventually progressed to surgery in 2004.

REQUESTED SERVICE(S)

Medical necessity of therapeutic exercises 8/5/03 through 9/26/03.

DECISION

Approved.

RATIONALE/BASIS FOR DECISION

By all accounts (per the supplied records), this patient was inappropriately placed in a work hardening program. He did not do well. Pain management interventions in the form of epidural steroid injections were subsequently attempted, followed by a focused rehabilitation/exercise course which provided some benefit. This form of intervention is certainly well within standards of practice. A focused exercise program following pain management intervention procedures is appropriate and was medically necessary.

The above analysis is based solely upon the medical records/tests submitted. It is assumed that the material provided is correct and complete in nature. If more information becomes available at a later date, an additional report may be requested. Such and may or may not change the opinions rendered in this evaluation.

Opinions are based upon a reasonable degree of medical/chiropractic probability and are totally independent of the requesting client.

References:

Hansen DT: Topics in Clinical Chiropractic, 1994, volume one, No. 4, December 1994, pp. 1-8 with the article "Back to Basics: Determining how much care to give and reporting patient progress".

The U.S. Department of Health and Human Services Agency for Health-Care Policy and Research (AHCPR), publication No. 95-0643 entitled Acute Low Back Problems in Adults: Assessment and Treatment.

Haldeman S., Chapman-Smith D, Peterson DM., eds. Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen: Giathersburg, MD, 1993;

Souza T: Differential Diagnosis for a Chiropractor: Protocols and Algorithms, 1997; chapter 1, pp. 3-25.

Liebenson C. Commentary: Rehabilitation and chiropractic practice. JMPT 1996; 19(2):134140

Québec Task Force on Spinal Disorders. Scientific approach to the assessment and management of activity-related spinal disorders: a monograph for clinicians. Spine. 1987;12:51-59.